REMARKS

This is in response to the Office Action dated May 7, 2010, after

Applicants submitted a request for continued examination under 37 CFR 1.114 dated

April 20, 2010, in which the Examiner rejects the pending claims under 35 USC §§102(b)

and 103(a). More specifically, the Examiner rejects claims 24-31 under 35 USC §102(b)

as being anticipated by US PgPub 2002/0123928 to Eldering, *et al*. ("Eldering"). Claims

1-12, 14, 15, 17-20 and 23 stand rejected under 35 USC §103(a) as being obvious over

US Patent No. 6,169,542 to Hooks, *et al*. ("Hooks") in view of Eldering and US PgPub

2003/0154128 to Liga, *et al*. ("Liga"). Claim 16 also stands rejected as obvious over

Hooks, but in view of Eldering, Liga, US PgPub 2003/30130887 to Nathaniel

("Nathaniel") and US PgPub 2002/0161609 to Zizzamia, *et al*. ("Zizzamia"). Claims 32

and 43 stand rejected as obvious over Eldering in view of Liga and Claim 33 stands

rejected as obvious over Eldering in view of US Patent No. 6,941,573 to Cowan, *et al*.

("Cowan"). Claims 34-41 stand rejected as obvious over US Patent No. 6,588,013 to

Lumley, *et al*. ("Lumley") in view of Hooks and Liga and claim 44 stands rejected over

Eldering in view of Liga and further in view of Cowan. Finally, the Examiner rejects

claims 45-50, 52 and 53 under 35 USC §103(a) as obvious over Eldering in view of

Cowan and Liga.

Independent claim 1 stands rejected as obvious over Hooks in view of

Eldering and Liga. Independent claim 1 discusses a system for creating a program for

delivery to a client in a video time shifting architecture. The system of claim 1 comprises

an advertisement selection system (ADS) operative to select one or more advertisements

according to address data associated with the client and transmit one or more identifiers

that uniquely identify the selected advertisements. The system of claim 1 further comprises an advertisement management system (AMS) operative to generate a playlist that identifies content, including a user requested program stored in the video time shifting architecture and the one or more selected advertisements, the AMS being further operative to determine whether the one or more selected advertisements have expired and to request one or more replacement advertisements for the one or more selected advertisements that have expired. Independent claim 1 also comprises a video server operative to interpret the playlist and deliver the content to the user.

Hooks fails to teach or suggest an ADS as claimed, but rather discusses (i) the use of video subscriber units for purchases (Col. 7, ln. 59 – col. 8, ln. 7) and (ii) that a subscriber may obtain supplemental advertising information related to a viewed advertisement (Col. 14, lns. 28-45). The Examiner combines Hooks with Eldering, which the Examiner asserts maps subscribers to elements of the cable television (CTV) system. Eldering at ¶[0061] and Fig. 31). This combination, however, does not teach the presently claimed ADS, which is operative to select advertisements (not supplemental advertisements as Hooks discusses and the Examiner acknowledges) according to address data associated with the client. Although the Examiner asserts that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the graphical hot links of Hooks to include a mapping of subscribers to elements of the CTV system," neither the Examiner not the references provide any guidance as to why one of skill in the art would implement such a combination absent the teachings of the present application.

Continuing with independent claim 1, Hooks discusses advertisement identifiers, but is silent with regard to the use of identifiers that uniquely identify selected advertisements. The Examiner also fails to acknowledge that the ADS as claimed is operative to transmit one or more identifiers that *uniquely* identify the selected advertisements. While nether Hooks nor Eldering discuss the use of unique advertisement identifiers, Hooks appears to teach away from the presently claimed invention by only discussing unique *programming* identifiers.

Hooks also fails to teach or suggest the use of the claimed "playlist" to identify content, which includes "a user requested program stored in the time shifted architecture and the one or more selected advertisements". According to the present specification, a playlist "is a listing of content that the NDVR control center uses to control the specific video that it delivers to clients in response to control commands that the client generates." Specification at ¶[0059]. As explained in previous Responses and acknowledged by the Examiner, Hooks discusses receiving, at a head end facility, a request to register an advertisement in a menu and adding an entry for the advertisement to a menu that is displayed to the client, which may be selected by a user for playback. The menu structure of Hooks and adding advertisements thereto, however, is not interpreted by a video server to deliver content identified therein to a user as claimed. In essence, the architecture discussed by the combination of Hooks and Eldering is not operative to select unique advertisement identifiers to identify advertisements for inclusion with a user requested program in a playlist data structure as claimed.

The combination of Hooks, Eldering and Liga also fail to discuss determining advertisement expiration and requesting replacement advertisements. Liga

discuss that where an embedded time stamp indicates that an advertisement is stale, the

PVR may substitute an updated advertisement, as opposed to the claimed replacement

advertisement. Liga at ¶[0024]. At most, Liga discusses that the updated advertisements

have timely information, indicating that updated advertisements do not replace expired

advertisements as claimed, but rather provide the original advertisements with timely

information. A replacement advertisement as claimed, however, may be a totally

different advertisement from the expired advertisement and need not provide timely

information for the products or services advertised by the original advertisement, as Liga

suggests.

Accordingly, independent claim 1 is allowable over the prior art for at

least the above-identified reasons and allowance is respectfully solicited regarding the

same.

Independent claim 24 is directed towards a method for delivering local

advertising to a client in a video distribution system. The method according to

independent claim 24 comprises performing an action that invokes a request for a

program, collecting information regarding the request and generating a playlist using a

geographically zoned local advertisement and the requested program. The method of

claim 24 further comprises determining whether the geographically zoned local

advertisement has expired and replacing an expired geographically zoned local

advertisement with a replacement advertisement. The local advertising and program are

delivered to a client for decoding and playback.

Although the Examiner provides an exhaustive discussion of the use of

groupings, geographic locations and the correlation of subscribers to CTV equipment, the

discussion is silent with regard to the claimed geographically zoned programming. Indeed, the closest that the Examiner's explanation comes to any discussion of geographically zoned content solely discusses national programming and fails to provide any explanation as to how the systems and methods of Hooks and Eldering would account for geographically zoned local *advertisements* in the manner provided by the presently claimed architecture. To the extent that these references discuss the use of national programming and advertising, they appear to teach away from independent claim 24.

In the context of independent claim 24, Hooks fails to teach or suggest the use of the claimed "playlist" to identify content, which includes "a user requested program stored in the time shifted architecture and the one or more selected advertisements". According to the present specification, a playlist "is a listing of content that the NDVR control center uses to control the specific video that it delivers to clients in response to control commands that the client generates." Specification at ¶[0059]. As explained in previous Responses and acknowledged by the Examiner, Hooks discusses receiving, at a head end facility, a request to register an advertisement in a menu and adding an entry for the advertisement to a menu that is displayed to the client, which may be selected by a user for playback. The menu structure of Hooks and adding advertisements thereto, however, is not interpreted by a video server to deliver content identified therein to a user as claimed. In essence, the architecture discussed by the combination of Hooks and Eldering is not operative to select unique advertisement identifiers to identify advertisements for inclusion with a user requested program in a playlist data structure as claimed.

The combination of Hooks, Eldering and Liga also fail to discuss determining advertisement expiration and requesting replacement advertisements. Liga discuss that where an embedded time stamp indicates that an advertisement is stale, the PVR may substitute an updated advertisement, as opposed to the claimed replacement advertisement. Liga at ¶[0024]. At most, Liga discusses that the updated advertisements have timely information, indicating that updated advertisements do not replace expired advertisements as claimed, but rather provide the original advertisements with timely information. A replacement advertisement as claimed, however, may be a totally different advertisement from the expired advertisement and need not provide timely information for the products or services advertised by the original advertisement as Liga suggests.

Accordingly, independent claim 24 is allowable over the prior art for at least the above-identified reasons and allowance is respectfully solicited regarding the same.

Independent claim 34 is directed towards a system for delivering local advertising to a client in a video distribution system. The system of claim 34 comprises a client device operative to perform an action that invokes a request for a program. An advertisement management system (AMS) is operative to collect information regarding the request and generate a playlist utilizing one or more geographically zoned local advertisements and the requested program, the AMS being further operative to determine whether the one or more geographically zoned advertisements have expired and to request one or more replacement advertisements for the one or more geographically zoned advertisements. Claim 34 further comprises a video server that is operative to

receive the playlist and deliver the local advertisement and program to the client for decoding and playback.

The Examiner asserts that independent claim 34 is obvious over Lumley in view of Hooks and Liga. Lumley, as discussed by the Examiner, concerns a promotional video system in which promotional events are logged in a promotional event log that is used to automatically update a promotional material selection algorithm. The Examiner asserts that the promotional material selection algorithm of Lumley uses selection parameters for the selection of promotional materials. Lumley, however, like Hooks, Eldering, Liga and the remaining prior art of record, is silent with regard to the claimed generation of a playlist that utilizes one or more geographically zoned local advertisements and a user requested program. The playlist, as claimed, is received by a video server to determine content to deliver to the client for decoding and playback. Hooks, by contrast, is solely concerned with updating menus to include supplemental advertisements related to previously viewed advertisements.

The prior art also fails to discuss determining advertisement expiration and requesting replacement advertisements as claimed. Liga discuss that where an embedded time stamp indicates that an advertisement is stale, the PVR may substitute an updated advertisement, as opposed to the claimed replacement advertisement. Liga at ¶[0024]. At most, Liga discusses that the updated advertisements have timely information, indicating that updated advertisements do not replace expired advertisements as claimed, but rather provide the original advertisements with timely information. A replacement advertisement as claimed, however, may be a totally different advertisement from the expired advertisement and need not provide timely information for the products or

services advertised by the original advertisement as Liga suggests. Indeed, replacement advertisements as claimed do not contemplate accuracy of information but replace expired advertisements with those advertisements residing within the video time shifting architecture that are not identified as being expired.

Accordingly, independent claim 34 is allowable over the prior art for at least the above-identified reasons and allowance is respectfully solicited regarding the same.

Independent claim 43 is directed towards a computerized method for delivering local advertising to a client in a video distribution system. The method of claim 43 comprises electronically receiving multiple zone copies of a given program, each zoned copy containing proper local advertising for a given zone, and recording a zoned copy of a give program containing proper local advertising for each zone the video distribution system services. The method further comprises electronically determining, by using a programmable microprocessor, the zone in which the client requesting the program is located and electronically determining, by using a programmable microprocessor, whether the proper local advertising contained in the zoned copy of the requested program has expired and replacing the expired proper local advertising with a replacement advertisement. The zoned copy of the requested program is transmitted to the client.

In the context of independent claim 43, Eldering fails to teach or suggest the receiving and recording a zoned copy of a given program containing proper local advertising for each zone the video distribution system services. At most Eldering discusses targeting advertisements to subscribers residing in a given subzone or micro-

zone. Eldering is silent, however, with regard to receiving multiple zoned copies of a given program, each zoned copy containing proper local advertising for a given zone. Indeed, Eldering appears to teach away from this element by discussing default advertising and the use of a Secure Correlation Server to create presentation streams that include original programming with targeted advertisements in place of default advertisements. Eldering at ¶[0086]. According to Eldering, there is no need to receive and record multiple zoned copies of a given program as claimed, as Eldering replaces default advertisements with targeted advertisements./

The prior art also fails to discuss determining advertisement expiration and requesting replacement advertisements as claimed. Liga discuss that where an embedded time stamp indicates that an advertisement is stale, the PVR may substitute an updated advertisement, as opposed to the claimed replacement advertisement. Liga at ¶[0024]. At most, Liga discusses that the updated advertisements have timely information, indicating that updated advertisements do not replace expired advertisements as claimed, but rather provide the original advertisements with timely information. A replacement advertisement as claimed, however, may be a totally different advertisement from the expired advertisement and need not provide timely information for the products or services advertised by the original advertisement as Liga suggests. Indeed, replacement advertisements as claimed do not contemplate accuracy of information but replace expired advertisements with those advertisements residing within the video time shifting architecture that are not identified as being expired.

Accordingly, independent claim 43 is allowable over the prior art for at least the above-identified reasons and allowance is respectfully solicited regarding the same.

Independent claims 45, 49 and 50 all comprise the use of a playlist delivered to a video server. The combination of Eldering, Cowan and Liga fails to teach or suggest the use of the claimed "playlist" to identify content, which includes "a user requested program stored in the time shifted architecture and the one or more selected advertisements". According to the present specification, a playlist "is a listing of content that the NDVR control center uses to control the specific video that it delivers to clients in response to control commands that the client generates." Specification at ¶[0059].

The Examiner relies on Eldering as allegedly teaching those claimed elements relating to the generation and use of the claimed playlist. As explained in previous Responses and acknowledged by the Examiner, Eldering discusses the use of a Secure Correlation Server that creates presentation streams that include original programming with targeted advertisements in place of default advertisements. Eldering at ¶[0086]. Eldering is silent, however, with regard to the use of the claimed playlist that is used to control the specific video that is delivered to clients in response to received control commands.

Accordingly, independent claims 45, 49 and 50 are allowable over the prior art for at least the above-identified reasons and allowance is respectfully solicited regarding the same.

The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over

the prior art of record. Given the Applicants' position on the patentability of the independent claims, however, it is not deemed necessary at this point to delineate such distinctions.

For at least all the reasons above, Applicants respectfully request the withdrawal of all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the Examiner is invited to call the Applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

/Seth H. Ostrow/

Dated: October 7, 2010

_____

Seth H. Ostrow
Reg. No. 37,410

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY THROUGH
THE PATENT AND TRADEMARK OFFICE EFS
FILING SYSTEM ON October 7, 2010.

Ostrow Kaufman LLP
405 Lexington Ave, 62nd Floor
New York, NY 10174
212-682-9200 Ph
212-682-9222 Fx.
Customer No. 61834